

ONEIDA COUNTY BOARD OF ADJUSTMENT
TUESDAY, JULY 25, 2006
8:30 A.M. – COMMITTEE ROOM #2
2ND FLOOR COURTHOUSE, RHINELANDER, WI 54501

Chairman Robert Fries called the meeting to order at 8:30 a.m. in accordance with the Wisconsin Open Meeting Law.

Roll call of Board members present: Chairman Robert Fries “here”, Vice Chairman Robert Rossi “here”, Elmer Goetsch “here”, and Alternate Members, Jim Cation “here”, and Denny Thompson “here”. Harland Lee and Richard Meehan excused absence.

Staff members present:

Pete Wegner, Assistant Zoning Director
Steve Osterman, Planning Manager
Otona Felten, Secretary II

No other individuals were present.

Approve the agenda.

Motion by Denny Thompson, second by Elmer Goetsch to approve the agenda. With all members present voting "aye", the motion carried.

Old Business: Discuss status of previous cases:

Elmer Goetsch, Secretary, informed the Board that he had received a letter from the previous appellant Clair Weiderholt which explains that Mr. Weiderholt understood that the variance granted was a minimum, not to exceed 720 square feet, but a minimum with the implication that he could build the building bigger. Mr. Goetsch explains the decision, as he wrote it, to the Board. Mr. Goetsch believes that the motion which read to grant the variance to allow construction of a 720 square foot home at least 24 feet wide and no closer than 50 feet from the ordinary high water mark of Wind Pudding Lake. Chair Robert Fries also understood the motion to read that Mr. Weiderholt could build a 720 square foot building.

Robert Rossi also remembers Mr. Weiderholt stating that he had anticipated building a loft, which could also be 720 square feet.

Mr. Goetsch will respond back to Mr. Weiderholt’s letter of concern and explain the motion to him and if Mr. Weiderholdt feels that there is some need to be clear on exactly how large he can build the home, he can discuss it with the Planning and Zoning Department. Mr. Goetsch also explained to the Board that there is case law, which says any variance granted should be the minimum necessary to make the building useable. The county says that the minimum square footage of the building can be 720 square feet.

Current Business: Discuss current and pending appeals to BOA.

Secretary Elmer Goestch stated to the Board that he received a letter from Wickman Constructing regarding pending *Appeal #06-005 James Carmichael*, scheduled for August 8, 2006. Wickman Constructing is request that the Board postpone the hearing to a later date. Mr. Goetsch stated that this

could be done but the additional notice would have to be paid by the appellant. The Board agreed and *Appeal #06-005 James Carmichael* was rescheduled for September 12, 2006.

Robert Rossi questioned *Appeal #06-002 – Krueger vs Dunbar* status. Mr. Steve Osterman, Planning Manager stated that the department had heard that the parties are trying to reach a settlement and felt that something would happen soon. Pete Wegner, Assistant Zoning Director, informed the Board of a possible upcoming appeal being submitted by Orvin “Matt” Matteson. Mr. Wegner informed Mr. Matteson that if he wished to appeal that he should send a letter to the Board requesting for September 2006 as a tentative appeal date.

Motion by Elmer Goetsch, second by Robert Rossi to tentatively schedule Tuesday, September 26, 2006 as an appeal hearing date. With all members voting “aye” the motion carried.

Current Business: Discuss current appeals to Circuit Court.

Nothing was discussed.

Current Business: Review and revise meeting schedule.

Done previously.

Current Business: Discuss status of NR115 revision.

Elmer Goetsch informed the Board that there was no change and that the focus group committee meeting has not been called yet, still pending.

8:45 a.m. The Board of Adjustment recessed to conduct the scheduled onsite inspection for today’s continuation of Appeal #06-004 of Oneida County Sheriff.

**ONEIDA COUNTY BOARD OF ADJUSTMENT
TUESDAY, JULY 25, 2006
1:00 P.M. – COMMITTEE ROOM #2
2ND FLOOR COURTHOUSE, RHINELANDER, WI 54501**

Chairman Robert Fries called the meeting to order at 1:03 p.m. in accordance with the Wisconsin Open Meeting Law.

Roll call of Board members present: Robert Rossi “here”, Elmer Goetsch “here”, Chairman Robert Fries, “here”, Jim Cation “here”, Denny Thompson “here”. Richard Meehan & Harland Lee were excused.

Staff members present:

Steve Osterman, Planning Manager
Mary Bartelt, Typist III

Other individuals present

Ken Kortenhof
Dan Hess
Jeff Hoffman
John Sweeney

Appeal #06-004 of Oneida County Sheriff

Secretary Elmer Goetsch read into the record the Notice of Public Hearing for Appeal #06-004 of Oneida County Sheriff.

Mr. Goetsch stated that the original Notice of Public Hearing for the meeting on July 25, 2006 was published in the Rhinelander Daily News on July 10 2006 and July 17, 2006 and in the Tomahawk Leader the week of July 17, 2006. The certified and first class mailing lists were read into the record.

Mr. Goetsch read the Onsite Report into the record.

Secretary Elmer Goetsch noted that the Board of Adjustment prior to this hearing did conduct an onsite inspection this morning at approximately 10:00 a.m. and that the three regular members of the Board were present, Goetsch, Rossi and Fries along with the two alternates, Cation and Thompson and also present were Zoning staff, Steve Osterman, appellant representative, Ken Kortenhof, the Emergency Management Director and the Supervisor from the Town of Lynne, Mr. Merlin Kobs. It was determined at that time that the location of the proposed structure was an open area accessible from Willow Road, cleared, flat and appeared to be a good power site on that basis alone.

Mr. Goetsch read for the record a letter of correspondence.

1. Letter, dated July 11, 2006 from the Town of Lynne notifying the Board that the Lynne Town Board approves the proposed 250’ construction tower and equipment shelter to be located at 4832 Willow Road.

For the record, Chairman Robert Fries went on to explain to those present that this is a public hearing and is held in accordance with the Wisconsin Open Meeting Law. It has been the practice of this Board to leave the door of the meeting room open so that anyone may enter. If it becomes difficult to hear because of noise in the hallway, Chairman Fries noted that the door would be closed. (A sign will be posted on the door stating that an open meeting is in progress and that anyone may enter.) Any testimony given will be under oath and the party will be sworn in prior to testifying. The meeting will be tape-recorded and sworn testimony will be transcribed. The Board of Adjustment asks that only one person speak at a time because of the difficulty in transcribing when several persons are talking at one time. Chairman Fries advised the appellants that the Board of Adjustment has the option to convene in closed session to deliberate, but normally that does not occur. The hearing is closed as to further testimony and the board members make a decision on the case. If the appellant does not agree with the Board's decision, then he or she may begin action with the Circuit Court within 30 days from the date of the decision.

At this time, Chairman Fries swore in the following individuals: Mr. Ken Kortenhop, John Sweeney and Steve Osterman.

Ken Kortenhop stated to the Board that the reason that he was here was to build a communication structure, but the issue at hand is the one structure, which is within a quarter mile radius of the proposed tower. Mr. Kortenhop hands out to the Board maps of the proposed tower location and the structure location. EXHIBIT #1. Mr. Kortenhop explains Exhibit #1 to the Board. The structure in question is near the intersection of Willow Road and Thunder Creek Road, which is marked as a black square. The structure is approximately 835 feet from the proposed tower site and the tower is proposed to be 250 feet, which means that this structure is well outside of the fall zone of the proposed tower. The yellow mark on the map shows the existing structure and one quarter of a mile from that structure. Therefore, the tower is within that quarter mile of a structure, which is the reason why Mr. Kortenhop is here today.

Mr. Kortenhop explained that the person in question is a James Kalscheur, 4803 St. Lawrence Bluff Road, Poynette, WI 53955. On July 5, 2006, Mr. Kortenhop had a telephone conversation with Mr. Kalscheur and at that time Mr. Kortenhop explained to him what was trying to be done and at that time Mr. Kalscheur was supportive of the proposed tower but Mr. Kalscheur requested that Mr. Kortenhop write a letter on his behalf and Mr. Kalscheur would sign that letter and send it back to Mr. Kortenhop. Mr. Kalscheur did not do this. EXHIBIT #2.

Mr. Kortenhop explained to the Board that CTA Communications is a company that Oneida County hired to put together the Communications System. Mr. Kortenhop presents a letter to the Board from CTA. EXHIBIT #3. Mr. Kortenhop noted that the letter from CTA stated that the southwest corner of Oneida County needed coverage and that the preliminary design of that tower would be 200 feet. Oneida County would like a 250 foot tower to allow space for possibly a cell phone carrier or some type of revenue generating occupancy on that tower for Oneida County. The main purpose of the tower would be for public safety communications, which involves the law enforcement, police, fire, EMS and the co-location would be secondary.

Mr. Kortenhop presents to the Board Mr. James Kalscheur's Zoning Permit Application. EXHIBIT #4. Also presented was a zoning map of the area. EXHIBIT #5

Mr. Goetsch asks what zone the property is question is in.

Mr. Osterman stated that it is Recreational and that communication towers are permissible in this zone with a Conditional Use Permit.

The Board discussed whether or not the structure in question was a seasonal or year round dwelling. The Board agrees that a hunting cabin is seasonal, not being occupied more than 180 days. Therefore the cabin would not be considered a residence. Mr. Rossi explains that by looking at the cabin not being a residency, a variance would not be needed.

Mr. Goetsch, "In the ordinance it states not less then ¼ mile from a residence."

Mr. Rossi, "And this is my opinion that this is not a residence." "Listing such a dwelling as an occupant legal residence for the purpose of voting, payments of income taxes or motor vehicle registration for the purpose of eligibility of the State Wisconsin lottery tax refund." "I don't feel that Mr. Kalschur is applying for any of those, therefore, I don't believe that this cabin is a residence."

Mr. Steve Osterman, Planning Manager, did some searching to any similar requests since the communication tower was adopted approximately eight to ten years ago. Only one conditional use permit was found to be similar, but different. There is a Cellcom communication tower in Lake Tomahawk on Bear Road and Highway 47. The Matoon Hunting Club requested a tower similar to this tower to be built there and it went to the Zoning Committee. At that time the Zoning Committee accepted that fact that the cabin owned by the Matoon Hunting Club was not a residence. This is the only similar tower, which Mr. Osterman could find and it was approved as a conditional use permit.

Mr. John Sweeney talked to the Town of Lynne Chair, Duane Means and that the Town Board of Lynne was not opposed to the proposed tower.

Motion by Robert Rossi, second by Denny Thompson that in the context of the Oneida County Ordinance, the meaning for the word "residence", by the applicants (Mr. Kalschur) own definition of what he is building or requesting to build does not qualify as the term indicates "residence" something that is year round, more than 180 days or 185 days it is as he states in his own application a "hunting cabin" and therefore Mr. Kalschur's cabin is not a residence.

Roll Call Vote on Amended Motion

Motion by Elmer Goetsch, second by Denny Thompson to amend motion to add, "and therefore, no variance needed". Roll Call Vote: Robert Rossi "aye", Elmer Goetsch "aye", Robert Fries "aye", Jim Cation "aye" and Denny Thompson "aye". Motion carried.

Roll Call Vote on Final Motion

Roll Call Vote: Robert Rossi "aye", Elmer Goetsch "aye", Robert Fries "aye", Jim Cation "no" and Denny Thompson "aye". 4 ayes, 1 no (Jim Cation) Motion carried.

1:44 p.m. Board Adjourns.